

Approved 6-28-07
CONSERVATION COMMISSION
MEETING MINUTES
May 24, 2007
Beginning at 7:30 p.m.
Room 209, City Hall

MEMBERS PRESENT: I. Wallach, Chair, D. Dickson, R. Freed, A. Green, N. Richardson; Associates: D. Green, J. Hepburn

MEMBERS ABSENT: R. Reed, S. Lunin

MEMBERS OF THE PUBLIC: See attached sign-in sheet.

- 1. 3 Fuller Avenue:** Continuation of Public Hearing on Notice of Intent for demo of existing dwelling, construction of new dwelling with amenities.

Report– continued hearing for additional info on abandonment of the private way.

Meeting: Based on submitted plans, applicant would need a variance from ZBA for the setback, but Mary Trudeau, on behalf of the applicant, indicated at the meeting that they were planning to change the plans to comply with the setback requirements. M. Trudeau stated that they have not yet resolved the issue of Morrill Street, but the applicant is trying to get the property by adverse possession. Applicant proposes to submit a new plan for house to remain same size with storm drain discharges into the adjacent wetland (ponded area at edge of BVW.) Applicant had preliminary soils analysis confirming there is some fill in BVW – the garden is the lowest point and is likely in the BVW. The lawn area has approximately 18 in of fill (that has probably been there for 20-30 yrs). The owners have altered the ‘bank’, but the consultant, M. Tudeau, thinks this area is really a “spoils pile” to maintain the ponded area. M. Trudeau suggested that the Commission would rather see native plantings along the bank vs. the current plantings. With respect to delineating the wetland, M. Trudeau indicated that they did not have the right to put the wetland line on another property.

Hearing continued to June and CC requested: 1) Revised plans, with building footprint in compliance with required setbacks, as indicated at the meeting; 2) new NOI & plan or letter to indicate that if owner buys the land he will address the violation; 3) plans showing what is proposed if they cannot get ownership of the land; 4) plan should include planting the bank in native vegetation and moving the garden out of BVW.

- 2. DCR-owned Parkways, Pathways and Trails throughout Newton:** Public Hearing on Request for Determination of Applicability for management of vegetation on parkways, paths and trails Citywide.

Report - Vegetation management by mechanical, biological and chemical control methods throughout Newton. All areas will be treated as if they exist in a Sensitive Area. Herbicides will consist of low-pressure techniques (backpacks with handheld applicators or vehicle mounted boom sprayers with directed nozzles). The documentation submitted for the filing

is not adequate to discern where they will and will not treat vegetation with chemicals. The spray areas are not shown and upon comment to the person from Northern, DCR's consultant, he indicated that it would be marked in the field. As you know, Martha was not able to review field delineations, but I am hopeful that the new person will be on board for the meeting.

Meeting: Calvin Layton, from Northern Tree Service, represented DCR at the hearing. C. Layton indicated that DCR only plans to spray in buffer zones and the filing is to affirm how they would mark the boundaries of any "no spray areas." CC asked how DCR is working to reduce the amount of herbicide used. It was explained that the sprayer used has a photocell that helps distinguish between pavement vs living plants, to help reduce the amount of spray used. Also, there is a new "sweeper" to abrade plants from areas that need to be cleared. CC also asked if treatment area is "posted" so residents know when spraying occurs. C. Layton says "yes," it is posted. C. Layton indicated that they will only use "sensitive site" materials. CC asked if they employ thresholds related to types of plants, etc. C. Layton said he could provide a matrix with thresholds – matching the types of herbicides to the type of plants. It was suggested that he include a list of the 1st preferred course of action, then the materials in the 2nd and 3rd years. CC stated that DCR needs to submit plans/map to define what is in CC jurisdiction. CC asked that they keep records of to present when the DCR comes back in three years. One member of the public spoke and asked if the trail runs near residential property, if neighbors would be notified. C. Layton stated "yes," that neighbors would be notified.

CC asked "what information do other towns request regarding this type of work? In response to discussion:

CC requested: 1) DCR add a matrix of herbicide use to target plant to the Vegetation Management Plan, and to identify the preferred treatment for each type of nuisance vegetation (ex. Poison ivy, bittersweet, etc.) by year; 2) DCR to submit a plan/map to the Conservation Agent defining areas that are subject to the CC jurisdiction, prior to initiating treatments in these areas, each year; 3) DCR furnish CC with spray records, including applicators and license numbers.

Motion: Negative determination on work (motion by A. Green, Second by N. Richardson) – vote unanimous.

3. 365-381 Elliot Street: Continuation of Public Hearing on Notice of Intent for Vegetation Control adj. the Charles River.

Report– You requested additional information for this application, i.e., slope/bank stabilization, use of chemicals, etc. DEP did not issue a number for closure last month due to lack of plans and the consultant has promised to take care of that omission. Now the reason for lack of the number is 'waiting for the check to clear.' The photos submitted show that there is little or no vegetation management needed behind the building for this year. Nothing received to date.

Meeting: D. Pellegni, from Rizzo Associates, represented the applicant. The CC had asked for information on what they intend to use, D. Pellegni submitted MSDS sheets for "Round Up" and "Rodeo." CC said "Rodeo" is not appropriate. CC indicated that the applicant should be clear about what species are being treated and not spray for the "sake

of spraying.” CC stated that they did not want any use of sprays, except on poison ivy, and only after getting approval from the Conservation Agent. CC stated that although listed in their application they would not approve the removal or spraying of buckthorn or purple loosestrife.

CC requested: 1. Applicant submit a plan, for pre-approval by Conservation Agent, prior to beginning work, which should show areas where they intend to spray and the species that will be targeted, with specific instructions to avoid the removal or spraying of buckthorn or purple loosestrife.

Motion: To issue OOC by D. Dickson, Second by R. Freed) – vote unanimous.

4. Massachusetts Turnpike: Public Hearing on Request for Determination for Vegetation Control along the length of the Turnpike in Newton.

Report-Spraying along guardrails, bridge aprons, sign and delineator posts and other turnpike infrastructure. The only no-spray zone in Newton is near the Charles River (crossing of Muddy River) and it appears that designation is due to a wellhead in Weston. Licensed applicator is a Turnpike employee.

Unanimous vote: Negative determination -All work is out of all jurisdictional areas.

5. 1203 & 1211 Washington Street: Public Hearing on Notice of Intent for removal of existing retaining wall and construction of a new retaining wall adj. Cheesecake Brook.

Report– This filing resulted from the enforcement action where the RR-tie wall currently on the property has disintegrated and fallen into Cheesecake Brook. The plan is to do a joint project with the City where the property owner will have a contractor pull back the wall, old RR ties, etc., and make them stable. Then the City workers will go in and repair the bank (fieldstone) and bottom of Cheesecake Brook that was crushed by the weight of the RR tie wall. Once that work is completed, the property owner's contractor will come back and build a high concrete block wall, back outside of the City's drainage easement, and with deadmen to hold it in place. Then they will re-landscape, re-pave, and install fencing and a guard rail. The City's portion of the work will come in a NOI next month, so this project may ask to be continued to the June 28th meeting so they can both be heard at the same time.

Meeting: This hearing was continued to June 28th to allow for the City to file their related NOI.

6. 171 Concord Street: Public Hearing on Notice of Intent for construction of an addition in the Riverfront Area of the Charles River.

Report– This is a new addition taking the place of an existing porch, but built out a bit more, but it does not come closer to the river. They are planning on having some mature rhododendrons and other plantings relocated to provide screening.

Meeting: Kevin O’Flaherty, the owner, represented himself. Receipts for abutter notification presented. Work falls under re-development in the 200 ft riverfront of the

Charles R, although lot does not actually border on Charles and large trees on property would shade out shrubs planted close to the River. Although applicant offered to relocate rhododendrons and other plantings relocated to provide screening, it was suggested that a plant with some sort of berries, to provide food for wildlife, would be more appropriate. Following discussion about plantings:

Motion (by D. Dickson; seconded by A. Green and unanimous approval: Issue an Order of Conditions with the standard conditions and plantings of blueberry and holly (3-5 plants total)).

7. **108 Hagen Road:** Public Hearing on Notice of Intent for construction of an addition in the floodplain of Paul Brook.

Report– The owner is putting on an addition on a foundation in the floodplain (crawl space – no basement) and providing comp storage in existing floodplain (not illegal). I have concerns that the foundation will restrict the flow of flood waters which the Ordinance prohibits, plus the volume of comp storage required will be substantial and I'm not sure it was done correctly. I asked Frank Nichols to weigh in on that issue.

Meeting: Abutter notification receipts submitted. Nancy Radzevich and Anne Phelps had made a site visit and talked to owner, prior to the meeting and advised of City's Permit Engineer's review, dated May 21, 2007. As read into the record by the Chair, the Permit Engineer suggest putting both addition and deck on sona-tube footings and to reduce the compensatory flood storage, which the Permit Engineer stated was "unrealistic." Owner stated he will put the addition and the deck on sona-tubes and move the (much smaller area) of compensatory storage away from the foundation of the house. The Commission was willing to approve the project subject to the applicant submitting revised plans, for review and written authorization and approval by the City's Permit Engineer, showing the addition and deck on sona-tubes and a smaller area of compensatory storage in a location away from the foundation of the house. However, the Commission wanted the record to show that they do not want to set a new procedure of approving projects prior to getting approved plans, but in this particular case would approve the plans, as the only issue was related to engineering review and approval.

Motion (by D. Dickson; seconded by A. Green and unanimous approval: Issue an Order of Conditions with the standard conditions, subject to the applicant submitting a revised plan, in accordance with the City's Permit Engineer review memo, dated May 21, 2007, for review and approval.

8. **Charles River – Lakes District:** Public Hearing on Request for Determination for hand-pulling of water chestnuts.

Report– Lakes Region – Larry Smith of Kingswood Road and some of the other folks who live on the river are disappointed that the DCR does not have money this year to do the water chestnut harvest mechanically. They will do hand pulling from their canoes and kayaks and bring home the plants for home composting or yard waste pickup. This is a significantly less intensive project than the mechanical harvesting, but getting rid of small areas of infestation before they get too large has been very successful in the past.

Meeting: Ed Englander attended in lieu of Larry Smith. I. Wallach indicated that he would be recusing himself from the vote, but would participate in the discussion. E. Englander described the procedure for harvesting. There was discussion about whether the project should require a Notice of Intent, but notification of abutters would be problematic and it is really a public service, so the benefit outweighs short-term impacts to the waterway. The CC asked if dates had been selected. E. Englander had consulted with Jerry Smith (wetland consultant) who indicated that the best time for aquatic weed control was late July, so their group was looking at July 21st or July 27th. The CC asked if they would provide the Commission with a follow-up report including: where they disposed of the water chestnuts; method of disposal; what day(s) the work was actually done; and the number of people who participated.

Motion (by R. Freed; seconded by D. Dickson) to issue a negative determination, but conditioned on the group providing a follow up report – Vote: 4-0-1 (I. Wallach abstaining).

9. Kessler Woods Subdivision – Lot 3: Request for Amended Order of Conditions for changes to the building footprint, grading plan and landscape treatment.

Report– This is a request for an amended Order because the grading, house footprint and planting plan are different from the approved plan in the following ways: the building footprint will be larger than the previously approved plan; the patio and imperious portion of the driveway area (which is proposed to be asphalt for approximately the first 20-25 feet from the street, then transition to a gravel driveway to the garage) will be reduced. The applicant indicates the net effect is a reduction in the overall impervious surface. Based on the revised location of the house, there is expected to be less regrading of the site, overall. The applicant has concurrently filed for a special permit with the Board of Aldermen for a > 3 ft. change in grade, near the front of the lot; this request for a special permit petition is scheduled to be heard on June 12th. The revised landscape plan has been designed based on the new house design.

Meeting: The CC discussed the proposed changes, but noted that their review on this project was really limited to the stormwater management plan, in the context of the plan approved for the overall subdivision. M. Peirce represented the applicant. Receipt(s) from the abutter notification were submitted, but M. Peirce noted that a couple did not mail them back to him. I. Wallach read into the record a statement from Michael S. Kosmo, PE, dated May 22, 2007, certifying that "... the proposed plans, dated May 4, 2007, do not change the drainage patterns from the original approval subdivision plans.....and (that) there will be no increase in peak flow for the 100 year storm and the proposed dry well size, location and elevation are as shown on the approved subdivision plans." I. Wallach indicated that the City's Permit Engineer, in his May 22, 2007 memo, indicated that the proposed modifications would not have an adverse impact on the surrounding protected properties. After some discussion on the landscape plan, and concerns raised by staff that the plan may change as a result of the Board of Aldermen's review of the Special Permit petition, to be heard on June 12th, the CC indicated that for this lot they could not require more than what had been shown on the approved plan. In

lieu of approving a revised landscape plan, CC indicated that the landscaping should include the number and species shown on the approved plan, for this lot.

Motion (by D. Dickson; seconded by A. Green) to issue an Amended Order of Conditions, based on the revised site engineering plans, with the final planting being done in accordance with the approved landscape plans– Vote: unanimous.

10. **Announcements & General Business:**

Boundary Trespass: 0 Carlisle Street status report – [This is a boundary trespass issue and not within your regulatory jurisdiction.] Susan, Judy, Norm, Bob Merryman (Planning Department), and Frank Nichols (Engineering) conducted a visit to the property to investigate claims of no damage to trees, particular type of rock that will fracture without damage to the City's piece of the rock, and other claims. Their findings should be discussed, members should come up with their comments, and then the comments should be communicated to the owner by letter, with copies to ISD and Engineering.

April 26, 2007 Meeting Minutes were approved as amended.

All other business continued until next meeting

CC closed their meeting at approximately 11:40pm.

Respectfully submitted,

Anne Phelps
Sr. Environmental Planner

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